BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 538 1985

Bill H _____ S 89 Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Mar 12	✓ C	Hearing Date(s)	Jan 23	✓ C
	Mar 19	✓ C		Jan 28	✓ C
		C			C
		C			C
Date Out	Mar 19	✓ C		Jan 28	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

MONTANA LEGISLATIVE [illegible]CIL BILL STATUS SYSTEM
FINAL COMMITTEE [illegible]ORT OF REFERRED BILLS
COMMITTEE--(S) JUDICIARY

CHAIRMAN--MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0060	1/07	1/23		PASS AS AMENDED		1/23
MAZUREK, JOSEPH P.			REPLACE UNIFORM GIFTS TO MINORS ACT WITH UNIFORM TRANSFERS TO MINORS ACT			
SB0063	1/07	1/21	1/22 2/23	TABLED		2/6
HALLIGAN, MIKE			VALIDATE CONTRACT CLAUSES REQUIRING ARBITRATION			
SB0066	1/12	1/21	1/23	PASS AS AMENDED		1/25
HALLIGAN, MIKE			REQUIRING PLAIN LANGUAGE IN CONSUMER CONTRACTS			
SB0069	1/07	1/14 & 2/13	1/16 2/23	TABLED		2/18
GALT, JACK E.			EXTENDING RESERVED WATER RIGHTS COMPACT COMM'N AND REQUIRING STATUS REPORTS			
SB0085	1/10	1/16		PASS AS AMENDED		1/22
BROWN, BOB			CRIMINAL INTELLIGENCE INFORMATION UNIT			
SB0087	1/10	1/23		DO PASS		1/23
MAZUREK, JOSEPH P.			LIABILITY OF PARTNERS AND OTHERS UNDER UNIFORM LIMITED PARTNERSHIP ACT			
SB0089	1/11	1/23	1/23	PASS AS AMENDED		1/28
MAZUREK, JOSEPH P.			REVISING LAWS RELATING TO GARNISHMENT OF PERSONAL SERVICES EARNINGS			
SB0090	1/11	1/18	XXXXX	PASS AS AMENDED		1/22
MAZUREK, JOSEPH P.			EXPANSION OF DISCOVERY IN CRIMINAL CASES			
SB0091	1/11	1/22	1/22	DO PASS		1/22
MAZUREK, JOSEPH P.			GENERAL REVISION AND CLARIFICATION OF VENUE STATUTES			
SB0097	1/11	1/15	1/15 XXX 2/23	TABLED		1/17
CRIPPEN, BRUCE D.			AMEND CONSTITUTION TO RAISE DRINKING AGE TO 21 -- HIGHWAYS BILL			
SB0098	1/11	1/15	1/17 XXX 1/15, 2/23	TABLED		1/18
CRIPPEN, BRUCE D.			IMPLEMENT PROPOSED CONST. AMEND. RAISING DRINKING AGE TO 21-HIGHWAYS BILL			

QUESTIONS FROM THE COMMITTEE: Senator Towe asked that Senator Mazurek explain page 2, line 21, through line 5 on page 3. Senator Mazurek stated the only difference is on page 1, line 25, persons other than the partnership. On page 2, it specifies what his liabilities to the partnership are. It specifically states what the liabilities are to people other than the partnership and to the partnership. Senator Crippen asked if a general partner in a limited partnership is treated as a general partner in a general partnership. Senator Mazurek responded affirmatively. He stated a general partner in a limited partnership has the same liabilities both to the partnership and third parties as a general partner in a general partnership except as provided in this chapter. Senator Crippen asked if it will increase any liability a limited partner will have to third parties other than the general partners or general partnership. Senator Shaw stated these amendments came up because of the IRS and questioned whether this will give the IRS a little more bite or does it limit their bite. Senator Mazurek stated it limits their bite; you are trying to protect the status of limited and general partners. Senator Crippen asked how you treat a partnership where the same individuals are both general and limited partners. Senator Mazurek responded they would have the liabilities of both.

CLOSING STATEMENT: None.

Hearing on SB 87 was closed.

CONSIDERATION OF SB 89: Senator Joe Mazurek, sponsor of SB 89, stated this bill was introduced at the request of a local attorney in Helena who pointed out a problem in the garnishment statutes. The present garnishment statute allows a debtor, if there is a levy of execution against his or her wages, to file an affidavit stating his wages are necessary for the common necessities of life. The problem is there is no procedure for a creditor to challenge that affidavit. The purpose of the bill is to provide that once that affidavit is filed by the debtor, this will gives the judgment creditor the ability to say, I am not sure all of those wages are necessary for the necessities of life. Senator Mazurek proposed SB 89 be amended as shown on Exhibit 2. If the creditor does nothing, the wages cannot be garnished. It affords the creditor the opportunity to challenge the affidavit. We appear to have stricken the provision that only one-half of the earnings can be subject to exclusion; but that is misleading because the federal law preempts here. The federal law establishes how much of a person's wages can be subject to execution. This bill doesn't attempt to change the garnishment statutes in any way except the mere fact of filing an affidavit cannot stop execution in and of itself.

PROPONENTS: Louise Kunz, representing the Montana Low Income Coalition, appeared in support of SB 89 (see witness sheet attached as Exhibit 3).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe stated page 2, lines 1-5, is a separate paragraph in the existing law, but it is being blended into paragraph 2 of this bill. Paragraph 2 says earnings for personal services are exempt according to the federal law. He questioned whether we were effecting a change by combining the two and saying it is all under just one exemption, the federal. Senator Mazurek stated he does not think that is the intention. He doesn't think we have done that. His intention is not to change anything that is current practice; his only intention is to provide the hearing process. He thinks the bill request may have been used to clean up some language in the existing law. Senator Towe asked Mr. Petesch to look into the federal law. Senator Mazurek stated Mr. Petesch has it with him and he is looking into that.

CLOSING STATEMENT: None.

Hearing on SB 89 was closed. Senator Mazurek resumed the chairing of the committee.

ACTION ON SB 60: Senator Mazurek stated he thinks we should change the age limit to 18 years old. Parents can make transfers by will if they don't want to give it or do it another way. Senator Towe asked why there are two pages of applicability dates. Senator Mazurek stated if we repeal the UGMA, we want to make sure any transfers that have been made under that are valid. Mr. Petesch stated the only other thing in the bill the committee needs to look at is on page 21, termination of the custodian. Section 2503(c), U.S.C, indicates we may want to retain that 21 years there. Senator Towe questioned if a debt over $10,000 is owed to a minor, in order to pay it, you have to get the court's approval if a custodianship is created. Senator Mazurek stated any time a debt is paid to a minor for any reason, you have to go through court for approval, even without the $10,000 limit (such as in an insurance settlement). Senator Towe moved the amendments submitted to SB 60 (see Exhibit 1) be adopted. The motion carried unanimously. Senator Shaw moved SB 60 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 87: Senator Shaw moved SB 87 be recommended DO PASS. The motion carried unanimously.

FURTHER CONSIDERATION OF SB 89: Senator Shaw suggested Senators Crippen and Towe and Mr. Petesch go through this bill to speed up the process. Senator Pinsoneault stated SB 89 is a good bill, but he agrees it needs to be looked at. Senator Mazurek stated he also wants to be sure we are not fundamentally changing what has been said. Senator Towe stated he

has a question why in the amendment if no motion is filed, levy of execution upon the earnings is automatically stayed. He questioned why we did not say levy upon that portion of the earnings that is exempt is stayed. Senator Mazurek stated the federal requirement says 50% is exempt. An employer takes 50% pursuant to the levy. The employee finds out when it is not in his check. An employee files the affidavit that stops the delivery of the money to the creditor. As it stands now, there is no provision to challenge the affidavit. With the amendments, notices of the affidavit would be given to the creditor. Senator Towe stated you levy the attachment. The employee finds out and files the affidavit. In the attachment you are only going to ask for one-half. When the affidavit is filed, the court shall on motion of the creditor set the matter for hearing. The court is mailed a copy. If no motion is filed, levy of execution upon the earnings is automatically stayed, which means the money is returned to the wage earner. The issue is the other one-half. Senator Mazurek stated the affidavit stops the execution whether it is valid or not. Senator Towe stated the procedure is great, but the thing that throws you is the exemption. Senator Mazurek asked Mr. Petesch to take a look at this. Senator Towe asked what final order of the court meant in (3). Senator Mazurek stated it should be tied into final order of the hearing in the case. He asked that Mr. Petesch take note of this. Senator Mazurek stated he is not sure the concerns of Ms. Kunz are within the scope of this bill. Senator Towe stated we could build into section 2 simply that no execution against earnings take place unless the debtor has first been notified and given an opportunity for hearing. Senator Yellowtail stated he would be interested in that. Senator Pinsoneault stated regarding paragraph 5, as far as the sheriff is concerned, they are reticient to help without a final order of the court directing disposition.

FURTHER CONSIDERATION OF SB 66: Senator Halligan's proposed amendments to SB 66 were distributed to the committee (see Exhibit 4). Mr. Petesch explained the first amendment is a recommendation from the insurance commissioner's office which removes the reference to life insurance policy loans because those are covered under insurance plain language act. Number 2 was Professor Burnham's suggested amendment that would cover the warranties that are not signed. Numbers 3, 4, and 5 add new subsection 3 and excludes from plain language the provisions of public utility service to tariffs approved by the Public Service Commission as they are not written in plain language. Number 6 is intended to address the good faith/bad faith points that were raised as punitive damages are assessed in bad faith actions. Senator Towe asked about the laundry list on page 3. Mr. Petesch stated a consumer contract must be written in plain language, and these should be left in. Copies of the Flesch test that is contained in the insurance law were distributed to the committee (Exhibit 5). Mr. Petesch stated this was in the bill last year, but he feels the Flesch test flunks the Flesch test, although it

PROPOSED AMENDMENT TO SB 89:

1. Page 3, line 8.
Following: "shall"
Insert: "upon motion of the judgment creditor"

2. Page 3, line 12.
Following: "attachment."
Insert: "If no motion is filed, levy of execution upon the earnings is automatically stayed."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 012385
BILL NO. SB 89

(This sheet to be used by those testifying on a bill.)

NAME: Louise Kunz DATE: 1/23/85

ADDRESS: 107 Lawrence

PHONE: 449-8501

REPRESENTING WHOM? MT. Low Income Coalition

APPEARING ON WHICH PROPOSAL: SB 7

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: We ask that the hearing be before the attachment or garnishment.

If that isn't possible we ask the hearing be within 5 days - not 14 - at time of attachment or garnishment the client should be notified of his/her right to a hearing - this should be defined - perhaps two notices - one to employer to be given to employee to be attached or garnished once the last known address of individual. It is necessary to protect monies from sources that are exempt from being even temporarily attached or garnished

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 012385
BILL NO. SB 89

Page 2, line 22.
Following: line 21
Strike: "felony offense"
Insert: "misdemeanor"

Page 2, line 23.
Follwoing: "exceed"
Strike: "$50,000"
Insert: "$500"
Following: "in the"
Strike: "state"

Page 2, line 24.
Follwoing: line 23
Strike: "prison"
Insert: "county jail"
Following: "exceed"
Strike: "5 years"
Insert: "6 months"

The motion carried with Senator Pinsoneault voting in opposition. Chairman Mazurek reminded the committee that Senator VanValkenburg's other suggestion was to eliminate exploitation and limit this to abuse and neglect. Senator Towe stated he would still like to add the word "unreasonable." Senator Yellowtail asked whether Mr. Petesch or Mr. Briggs could come up with a better definition of exploitation. Senator Blaylock stated the age 60 also bothers him. Senator Mazurek stated the definitions come from the reporting requirements of nursing homes. Senator Brown asked why the age of 60 was used. Senator Towe stated that is the current statute; there is just no penalty. If you exploit someone and someone finds out about it, it is a crime for them not to report it, but it is not a crime to do it. Senator Towe asked that Mr. Petesch look into removing exploitation from the bill.

ACTION ON SB 132: Proposed amendments were distributed to the committee (Exhibit 5). Senator Mazurek stated these were amendments which he asked Mr. Petesch to prepare. Senator Pinsoneault moved adoption of the amendments, which motion carried unanimously. Senator Pinsoneault moved SB 132 be recommended DO PASS AS AMENDED. The motion carried with Senator Shaw voting in opposition.

ACTION ON SB 89: Proposed amendments were distributed to the committee (Exhibit 6). Mr. Petesch explained that the first amendment was requested by Ms. Kunz. Senator Mazurek stated that the first amendment is a substantial change in existing practice. Senator Pinsoneault clarified that we are simply addressing personal wages and asked if that were the limitation. He thought that if notice were given and the

employee didn't want to jeopardize his job, there would be a good possibility he would pay. Mr. Petesch stated federal legislation specifically stops an employer from discharging an employee because of a wage assignment. Senator Mazurek felt, however, this may lead the employer to find other reasons to discharge the employee. Senator Blaylock asked what the definition of "notice" is. He felt that if a person knew this were a notice, he would simply just tear the thing up. He feels it will be unfair if that language isn't in there. Senator Mazurek responded that is not currently required. If you think the current situation is unfair, then it will continue to be unfair. Senator Yellowtail moved adoption of the amendments. Senator Pinsoneault stated Senator Blaylock has raised a good point on this notice. He asked if this bill were modeled after some other state. Mr. Petesch stated this amendment was just Ms. Kunz' suggestion. Senator Yellowtail stated you make it doubly difficult for a legitimate creditor, and you have a judgment debtor who will play it any way he can. Senator Mazurek stated to a certain extent the bill may balance that process. The motion to adopt the amendments carried with Senator Galt voting in opposition. Senator Mazurek addressed page 1, lines 3 through 5. Mr. Petesch stated he does not believe there is a substantive change there. The change was in subsection 2 where it said the earnings are exempt. All this does is remove the preemption problem we had. Subsection 3 was there to comply with provisions elsewhere in the law. Senator Blaylock moved SB 89 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 119: Mr. Petesch explained the amendments submitted by Senator Eck and the Department. He stated that fees owed to the department may be collected on a proportional basis in connection with installment support payments. Senator Mazurek stated he is concerned the department is determining the fees. Mr. Petesch stated they are commensurate with the cost. Senator Brown moved adoption of amendment No. 2, option No. 1, relating to "collection fee." The motion carried unanimously. Senator Yellowtail moved the bill be amended as follows:

Page 2, line 9.
Following: "fees"
Insert: "commensurate with the cost of enforcement support services"

The motion carried unanimously. Mr. Petesch stated amendment No. 1 is unnecessary because the department may not charge the applicant a fee. Senator Mazurek stated you are absolutely prohibiting the department's charging a fee to the person who comes in for the services. Mr. Petesch states the intent of the bill is that the fee be paid by the obligor and not the applicant. Senator Yellowtail stated that in view of the fact

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 2/2

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

PROPOSED AMENDMENTS TO SB 89:

1. Page 2, line 25.
Following: "(1)"
Insert: "No execution against the earnings of a judgment debtor may take place unless the debtor has been given notice of the opportunity to file an affidavit pursuant to this section."

2. Page 3, line 8.
Following: "shall"
Insert: "upon motion of the judgment creditor"

3. Page 3, line 12.
Following: "attachment."
Insert: "If no motion is filed, levy of execution upon the earnings is automatically stayed."

4. Page 3, line 15.
Following: "court"
Insert: "directing disposition of the money following the hearing on the affidavit"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 6
DATE 012885
BILL NO. SB 89

STANDING COMMITTEE REPORT

January 28 1955

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 89

first reading copy (white color)

REVISING LAWS RELATING TO GARNISHMENT OF PERSONAL SERVICES EARNINGS

Respectfully report as follows: That SENATE BILL No. 89

be amended as follows:

1. Page 2, line 25.
Following: "(1)"
Insert: "No execution against the earnings of a judgment debtor may take place unless the debtor has been given notice of the opportunity to file an affidavit pursuant to this section."

2. Page 3, line 8.
Following: "shall"
Insert: "upon motion of the judgment creditor"

3. Page 3, line 12.
Following: "attachment."
Insert: "If no motion is filed, levy of execution upon the earnings is automatically stayed."

4. Page 3, line 15.
Following: "court"
Insert: "directing disposition of the money following the hearing on the affidavit"

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~

Chairman.

(To be kept current -- post bills when entering, being heard or leaving committee.) Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 5	1/18/85	3/7/85	2/7/85				2/7/85		
SB 26	1/19/85	3/11/85 3/12/85	(Tabled 3/12/85) Reconsidered 3/28/85 and passed out with BE CONCURRED IN AS AMENDED						
SB 57	1/22/85	3/7/85	3/7/85				3/7/85		
SB 27	1/23/85	3/8/85	3/8/85				3/8/85		
SB 80	1/24/85	3/11/85	3/11/85				3/11/85		
SB 2	1/26/85	3/6/85 3/7/85	(TABLED 3/7/85)						
SB 3	1/28/85	3/6/85 3/7/85	3/7/85				3/7/85		
SB 85	1/28/85	3/8/85	3/11/85				3/8/85		
SB 90	1/28/85	3/8/85 3/11/85	3/11/85					3/11/85	
SB 91	1/28/85	3/7/85 3/8/85	3/8/85					3/8/85	
SB 60	1/29/85	3/7/85 3/8/85	3/8/85				3/8/85		
SB 87	1/29/85	3/7/85	3/7/85				3/7/85		
SB 28	2/27/85	3/12/85 3/22/85	3/22/85					3/22/85	
SB 54	2/27/85	3/12/85	3/12/85					3/12/85	
SB 89	2/27/85	3/12/85 3/19/85	3/19/85					3/19/85	
SB 104	2/27/85	3/11/85	3/11/85				3/11/85		

There being no further questions, hearing closed on SB 132.

CONSIDERATION OF SENATE BILL NO. 89: Senator Joe Mazurek, Senate District #23, sponsor of SB 89, testified. He introduced this bill at the request of a local attorney in Helena. This bill is designed to adopt a very simple procedure which would allow if a judgment debtor claims that his earnings are exempt from execution because he needs the money for the common necessities of life, that a judgment creditor would have the ability to at least call into question what is stated in that affidavit. Currently, there is no procedure to challenge an affidavit filed by a judgment debtor saying that he needs all his earnings for the common necessities of life. He said that the bill is just trying to inject a certain amount of due process into the debt collection process. Senator Mazurek informed the committee that a number of counties are already doing this even though there is no provision for it in the law. He said the bill is reasonable and does not change what is exempt or what is not exempt.

David Hull, a Helena attorney who requested the introduction of SB 89, testified as an proponent. He informed the committee that he does a fair amount of debt collection practices with business and professionals throughout the state of Montana. He said the old statute is approximately 80 years old and is unconstitutional on two grounds. First of all, it has been superseded by federal law. Secondly, it provides for no due process -- it provides no opportunity for a hearing for the other side. It does not, in any way, lessen the debtor's rights, but it merely provides the due process for all the parties involved.

There being no further proponents or opponents, Senator Mazurek closed.

The floor was opened to questions.

Rep. Rapp-Svrcek asked that in the hearing that may be held would the debtor be required to hire an attorney. Senator Mazurek stated that it would be at the option of the person. He said the person may already have an attorney.

In response to a question asked by Rep. Bergene, Mr. Hull stated that this bill is not in any way inhibiting the person's right to collect child support.

There being no further questions, hearing closed on SB 89.

CONSIDERATION OF SENATE BILL NO. 54: Senator Tom Towe, Senate District #46, chief sponsor of SB 54, stated that SB 54 deals with an area where there is a real genuine concern by senior citizens. It deals with whether or not the state is

Rep. Keyser said that §61-8-405, MCA, deals only with the physician or registered nurses act being at the request of the peace officer. They have only stricken "under the supervision direction of a physician or nurse acting within the scope of such person's competence." Wouldn't proper administering basically be within the scope of their compentency?

Rep. Addy said that he would argue if he were representing a client in this situation that proper means consentual. By putting the second sentence on, we really narrow the scope of the first sentence.

Without objection, action on this bill will be postponed.

ACTION ON SENATE BILL NO. 331: Rep. Cobb moved that SB 331 BE CONCURRED IN. The motion was seconded by Rep. Montayne.

Rep. Mercer moved to adopt the amendments submitted by Anne MacIntyre at the hearing. The motion was seconded by Rep. Keyser and carried unanimously. (See standing committee report for those amendments.)

Rep. Darko moved that SB 331 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Bergene.

Rep. Keyser said that he didn't like the language on line 16 of the bill, "or a party". He feels this leaves it wide open and feels that it is too broad.

The question was called, and the motion carried with Reps. Hannah and Keyser dissenting. Rep. Connelly will carry the bill.

ACTION ON SENATE BILL NO. 89: Rep. Mercer moved that SB 89 BE CONCURRED IN. The motion was seconded by Rep. Darko. Rep. Mercer moved to amend SB 89 by incorporating the "gray bill" which was marked as Exhibit C and attached hereto. The motion was seconded by Rep. Gould. Rep. Mercer explained to the committee the changes that were incorporated into the "gray bill".

Rep. Addy feels that the gray bill may do exactly the opposite of what the original bill does.

The question was called on the motion to adopt the amendments as made on the gray bill, and it carried on a voice vote. Rep. Darko further moved that SB 89 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. O'Hara.

One of the committee members wanted to know if Sen. Mazurek was contacted and apprised of these amendments. Rep. Mercer said that he had consulted with Sen. Mazurek and the Senator had no problems with the amendments.

The question was called, and the motion passed unanimously. Rep. Mercer volunteered to carry the bill.

RECONSIDERATION OF SB 230: SB 230 was rereferred back to House Judiciary Committee. There was a concern expressed on the floor that should a situation occur in a small town when someone obtained a job following the Attorney General's ruling concerning the nepotism statute. There was some question as to whether the bill addresses a possible violation of the nepotism law.

Rep. Addy doesn't know if the problem is solvable. He said that we may run into an equal protection problem if this law is not applied to all situations. He said that he would prefer to not amend the bill in any way.

Rep. Keyser moved that SB 230 BE CONCURRED IN. The motion was seconded by Rep. Darko.

Brenda Desmond, staff attorney and researcher, explained the history connected with the bill. She suggested that the committee may want to add a new section to the bill.

Rep. Hannah asked if the bill, the way that it is written, will solve the problem, or will the Attorney General tell the legislature to be more specific in the next legislative session.

Rep. Keyser said he was left with the understanding that the Attorney General's Office thought the bill was okay as is. Rep. Keyser moved that a new section be added to the bill which would clarify the intent of the legislature on this issue. The motion was seconded by Rep. Bergene.

Rep. Mercer doesn't feel that a new section is warranted. He feels that the legislature should mean what it says in the statute and not require a statement of intent for each piece of legislation.

Rep. Keyser withdrew his motion to amend because he is comfortable with the bill as is.

The question was called on the BE CONCURRED IN motion, and it passed with Rep. Cobb voting "no". Rep. Keyser will carry the bill.

RECONSIDERATION OF SB 105: Rep. Mercer explained that SB 105 was rereferred back to committee because both Reps. Kitselman and Ramirez had problems with the bill on the floor. Rep. Miles pointed out that the opponents of the bill didn't want any language in the bill referring to health care costs.

STANDING COMMITTEE REPORT

MARCH 19 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration SENATE BILL Bill No. 89

THIRD BLUE reading copy (color)

REVISING LAWS RELATING TO GARNISHMENT OF PERSONAL SERVICES EARNINGS

Respectfully report as follows: That SENATE Bill No. 89

BE AMENDED AS FOLLOWS:

1. Page 1, line 17.
Following: "the"
Strike: "The"
Insert: "Except as provided in subsection (2), the"

2. Page 1, line 18.
Following: "rendered"
Strike: "at any time within"
Insert: "during the"

3. Page 1, line 19.
Following: "15."
Strike: "45 days next preceding"
Insert: "45-day period prior to"

DO PASS AS AMENDED

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

March 19 19

4. Page 1, line 16.
Following: "exempt"
Strike: ", subject" through "that the" on line 18
Insert: "to the extent such"

5. Page 1, line 18.
Following: "for the"
Strike: "use"
Insert: "support"

6. Page 1, line 19.
Following: "family"
Strike: "supported" through "labor"

7. Page 1, line 21.
Following: "(3)"
Insert: "(a) No earnings are exempt unless the judgment debtor complies with [section 2]. (b)"

8. Page 1, line 21.
Following: "Earnings"
Strike: "for personal services"

9. Page 1, line 22.
Strike: "subject" through "upon" on line 23.
Insert: "exempt under this section from"

10. Page 1, line 25
Strike: "and to relief"
Insert: "only to the extent allowed by 15 U.S.C. 1673. (c) One-half of earnings are not exempt for"

11. Page 2, line 8.
Following: "the"
Strike: "use"
Insert: "support"

Following: "family"
Strike: "supported" through "labor" on line 9
Insert: ". The affidavit must include the address of the judgment debtor or his attorney for purposes of service of notice under subsection (7). Levy of execution of judgment is automatically stayed by the filing of an affidavit"

12. Page 3, line 11.
Following: "shall"
Insert: "immediately mail a copy of the affidavit to the judgment creditor and,"

Following: "CREDITOR"
Insert: ","

CONTINUED

Chairman.

March 19 19 85

13. Page 3, line 14.
Following: "shall"
Strike: "immediately"

Following: "mail a"
Strike: "copy of the affidavit and"

14. Page 3, line 15.
Following: "to the"
Strike: "party" through "STAYED" on line 17
Insert: "parties"

15. Page 3, line 18.
Following: "(3)"
Strike: "the sheriff" through "AFFIDAVIT" on line 21.
Insert: "Following the hearing on the affidavit, the court shall remove the stay, order the stay extended, or remove the stay to the extent of nonexempt property"
Renumber: subsequent subsection

ab89
pri/klp

AND AS AMENDED,
BE CONCURRED IN

STATE PUB. CO.
Helena, Mont.

REP. TOM HANNAH Chairman.